

REMARKS

This Amendment and Response is in response to the Office Action, dated June 13, 2007 ("Office Action"), the Advisory Action dated August 10, 2007 ("The August 10th Advisory Action"), and the Advisory Action dated August 29, 2007 ("The August 29th Advisory Action"). Following entry of the present amendment, claims 52-74, 77 and 79-98, 101-152 remain pending; claims 52-59, 61, 64-67, 72-73, 77, 79-81, 86-87, 89-98 and 101 having been amended; claims 1-29, 31-50, 76, 78, and 99-100 having been canceled (claims 30, 51 and 75 having previously been canceled); and claims 102-152 having been added by virtue of the present amendment. No new matter has been added. Favorable consideration and a Notice of Allowance are earnestly solicited.

An Interview with Examiner Greta Lee Robinson was conducted on June 28, 2007, for which Applicants thank Examiner for her time. During the Interview, Applicants requested Examiner to reconsider and withdraw the finality of the Office Action because the new rejections were not necessitated by Applicants' previous amendment. It was pointed out to Examiner Robinson that the previous amendment merely changed the following: (1) corrected obvious grammatical and typographical errata; (2) added language to overcome the §101 rejection by adding the phrase "adapted to" into the claims and to clarify that the claimed invention was adapted to perform the function recited in the preamble, thereby clarifying the positive limitation to the claim (e.g., claim 52 was amended to recite "wherein the relevancy determination unit is adapted to determine the relevancy of the keyword."); and (3) added language for an additional limitation that was previously in dependent claim 75 (and thereby canceling claim 75), which was free from the prior art of record, to the independent claims (*i.e.*, the independent claims were amended to recited that the relevancy determination unit was adapted "to attach a relevancy level to the keyword."). As such, Applicants believed that the new rejections based on prior art were improperly made final. Examiner disagreed and refused to withdraw the finality of the rejection. However, Examiner invited Applicants to request reconsideration in the form of Remarks in the Response to the Office Action. In Applicants' July 27, 2007 Response under 37 C.F.R. §1.116, Applicants requested reconsideration. However, in an effort to

move forward with the prosecution of this application, but without conceding to the merits of the finality of the June 13, 2007 Office Action, Applicants will not repeat this request.

During the June 28th Interview, Examiner also indicated that an amendment that confers a realized function in the claims would obviate the §101 rejection. For example, Examiner indicated that amending claim 52 to recite "...a first interface adapted to receive and receives information relating to a reception of a keyword..." is acceptable and will obviate the §101 rejection. Applicants thank Examiner for her suggestion.

In the August 10th Advisory Action, Examiner found that claims 52-74, 77, 79-98 and 101 as amended in Applicants' July 27, 2007 Response under 37 C.F.R. §1.116 would be allowable if they were resubmitted. Applicants thank Examiner for her finding that claims 52-74, 77, 79-98 and 101 are allowable.

Examiner, citing MPEP §821.04 and pages 7-8 of the June 13, 2007 Office Action, stated that Applicants' amendment of withdrawn claims is not proper. Applicants provided remarks in their August 22, 2007 Response under 37 C.F.R. §1.116 and maintain that Examiner is in error in her application of the rejoinder rules.

In the August 29th Advisory Action, Examiner continued to find that claims 52-74, 77, 79-98 and 101 as amended in Applicants' August 22, 2007 Response under 37 C.F.R. §1.116 would be allowable if they were resubmitted. Applicants again thank Examiner for her finding that claims 52-74, 77, 79-98 and 101 are allowable.

Examiner referred to the Final Office Action's citation of MPEP §821.04 for maintaining the restriction requirement. Examiner stated that Applicants argued that the claims were found allowable at the time of the final office action. Examiner insisted that a complete reply to the final rejection requires cancellation of non-elected claims. Further, Examiner objected that claims 79-85 depended from cancelled claim 78. Examiner also stated that claims designated as "Withdrawn-Currently Amended" should be "Cancelled" or "Withdrawn."

Applicants disagree with Examiner's characterization of their August 22, 2007 Response and Examiner's application of the rules for rejoinder. Applicants did not

argue that the claims were found allowable at the time of the final office action. Applicants asserted that since Examiner had indicated in her August 10th Advisory Action that the product claims would be allowable, Examiner is required to consider rejoinder and patentability of the non-elected process claims that have all the limitations of an allowable product claim.

An Interview with Examiner Greta Lee Robinson was conducted on September 5, 2007, for which Applicants express thanks to Examiner for her time. During the Interview, Examiner insisted that Applicants needed to cancel the non-elected/withdrawn claims because they were not allowable at the time of the Final Office Action. Examiner suggested, stated and affirmed that if Applicants reintroduce the non-elected/withdrawn claims (*i.e.*, claims 1-29, 31-50, and 99-100) as new claims, she will enter the Amendment and consider the claims.

Applicants do not agree that the non-elected/withdrawn claims should be canceled and reintroduced as new claims in order for their rejoinder. However, without conceding to the merits of Examiner's findings, but in an effort to advance prosecution, Applicants have canceled claims 1-29, 31-50, and 99-100 and reintroduced them as new claims 102-152.

Applicants note that MPEP §821.04 states the following:

The propriety of a restriction requirement should be reconsidered when all the claims directed to the elected invention are in condition for allowance, and the nonelected invention(s) should be considered for rejoinder...

In order to be eligible for rejoinder, a claim to a nonelected invention must depend from or otherwise require all the limitations of an allowable claim...Furthermore, where restriction was required between a product and a process of making and/or using the product, and the product invention was elected and subsequently found allowable, all claims to a non-elected process invention must depend from or otherwise require all the limitations of an allowable claim for the claims directed to that process invention be eligible for rejoinder...In order to retain the right to rejoinder, applicant is advised that the claims to the nonelected invention(s) should be amended during prosecution to require the limitations of the elected invention.

The elected claims and the new claims are directed to a product and a process of using the product, respectively. MPEP 821.04(b), states in pertinent part:

However, if applicant elects a claim(s) directed to a product which is subsequently found allowable, withdrawn process claims which ...otherwise require all the limitations of an allowable product claim will be considered for rejoinder...Upon rejoinder of claims directed to a previously nonelected process invention, the restriction requirement between the elected product and rejoined process(es) will be withdrawn. (Emphasis added.)

...When all claims to the elected product are in condition for allowance, all process claims eligible for rejoinder must be considered for patentability." (Emphasis in original.)

New claims 102-152 contain all the limitations of an allowable product claim. Accordingly, Applicants respectfully submit that the non-elected process claims should be rejoined and must be considered for patentability.

Claims 52-59, 61, 64-67, 72-73, 77, 80-81, 86-87, 89-98, and 101 have been amended to confer a realized function; for example, phrases such as "and receives," "and calculates," "and attaches," "and stores," "and determines," "and updates," "and estimates," and "monitors," "and compensates," "and is coupled," "and compares," "and provides," "and attaches," "and coordinates," "and temporarily holds," "and filters," "and parses and stems," "and excludes," "and extracts and processes," "and discards," "and links," "and deletes," "and inserts," "and performs," "and matches," or "and provides," have been added, per Examiner's suggestion.

Claim 52 has been amended to recite that the "relevancy level" of the relevancy determination unit "is defined by a relevancy level threshold." Support for this amendment may be found throughout the specification and in canceled claim 76.

Claim 77 has been amended to recite that the system also comprises "at least one module selected from the group of modules consisting of: a message coordinator module adapted to coordinate and coordinates a handling of a plurality of information packets, a message buffer adapted to temporarily hold and temporarily holds the plurality of information packets, a message filter

module adapted to filter and filters a plurality of information packets according to predefined rules, a term extractor module adapted to parse and stem and parses and stems a plurality of information packets, a terms filter adapted to exclude and excludes a real time term according to predefined rules, a queries coordinator module adapted to coordinate and coordinates the processing of a client query, a query-term extractor adapted to parse and stem and parses and stems an incoming query to extract and process and extracts and processes an operative query-term, and a query-term filter adapted to exclude and excludes a specific query-term in a predefined manner." Support for this amendment may be found throughout the specification and in canceled claim 78.

Claim 79 has been amended to adjust the claim dependency.

Claim 101 has been amended to recite that the "relevancy level" of the relevancy determination unit "is defined by a relevancy level threshold." Support for this amendment may be found throughout the specification and in canceled claim 76.

New claim 102 is substantially similar to canceled claim 1 and contains all the limitations of claim 77. Support for this amendment may be found throughout the specification and in canceled claim 1.

New claims 103-131 are substantively identical to canceled claims 2-29 and 99. Support for this amendment may be found throughout the specification and in canceled claims 2-29 and 99.

New claim 132 is substantially similar to canceled claim 31 and contains all the limitations of claim 52. Support for this amendment may be found throughout the specification and in canceled claim 31.

New claims 133-152 are substantively identical to canceled claims 32-50 and 100. Support for this amendment may be found throughout the specification and in canceled claims 32-50 and 100.

In the Office Action, Examiner rejected claims 52-98 and 101 under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. Examiner found that independent claims 52, 77 and 101 "are

directed to an abstract idea and do not present a concrete tangible result [and] are directed to nonfunctional descriptive material which is non-statutory and simply recite an arrangement of data as opposed to a realized function."

In response to Applicants' previous Amendment, Examiner stated that the limitation "adapted" does not indicate that a function has been executed by the system and only states that it is capable of such a process. Thus, Examiner maintained her rejection under §101. Applicants respectfully traverse this rejection.

Applicants in no way concede to the merits of Examiner's rejection. However, in an effort to advance prosecution, Applicants have amended claims 52-59, 61, 64-67, 72-73, 77, 80-81, 86-87, 89-98, and 101 in the fashion suggested by the Examiner. The amended claims recite that the components each perform the recited function. For example, the claims have been amended to recite "a first interface adapted to receive *and receives*...a processor adapted to calculate *and calculates*...a storage unit...adapted to store *and stores*...the relevancy determination unit is adapted to determine *and determines*..." Accordingly, Applicants respectfully submit that the claims, as amended, are not directed to an abstract idea or nonfunctional descriptive material; rather, the claims recite a realized function and present a concrete tangible result. Applicants respectfully request reconsideration and withdrawal of this rejection under §101.

Examiner rejected claims 52-55 under §102(e) as being allegedly anticipated by Abe *et al.* Applicants respectfully traverse this rejection.

Claim 52 was previously amended to recite that the relevancy determination unit was adapted "to attach a relevancy level to the keyword." This limitation was found in previously canceled claim 75, which was free from the prior art of record. Examiner failed to address this previous amendment and Applicants are thus unclear as to why Examiner believes that claim 52 remains anticipated by Abe *et al.* Nonetheless, in the interest of advancing prosecution and in no way conceding to the merits of Examiner's rejection, Applicants have

amended claim 52 to further recite the limitation of claim 76, which is also free from the prior art of record. As such, claim 52 recites that the "relevancy level" of the relevancy determination unit "is defined by a relevancy level threshold."

In light of the foregoing, Applicants respectfully request reconsideration and withdrawal of this rejection under §102(e).

Examiner rejected claim 77 under §103(a) as being allegedly unpatentable over Abe *et al.* in view of Kinoshita *et al.* (U.S. Pat. No. 5,715,446). Applicants respectfully traverse this rejection.

Similar to claim 52, claim 77 had previously been amended to recite that the relevancy determination unit was adapted "to attach a relevancy level to the keyword." This limitation was previously found in previously canceled claim 75, which was free from the prior art of record. However, Examiner failed to address this previous amendment and Applicants are also unclear as to why claim 77 is rendered obvious by Abe *et al.* in light of Kinoshita *et al.*, because the prior art references in combination do not teach or suggest all the claim limitations.

Again, in the interest of advancing prosecution and in no way conceding to the merits of Examiner's rejection, Applicants have amended claim 77 to further recite the limitations of claim 78, which is also free from the prior art of record. As such, claim 77 recites that the system comprises at least one module selected from the group enumerated of modules. Accordingly, Abe *et al.* in light of Kinoshita *et al.* does not teach or suggest all the claim limitations.

Applicants respectfully submit that claim 77 is not rendered obvious by Abe *et al.* in view of Kinoshita *et al.* Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 77 under §103(a).

Examiner rejected claim 101 under §103(a) as being unpatentable over Abe *et al.* in view of Lee (U.S. Pat. App. Pub. No. 2002/0138475). Applicants respectfully traverse this rejection.

Similar to claim 52, claim 101 had previously been amended to recite that the relevancy determination unit was adapted "to attach a relevancy level to the

keyword." This limitation was previously found in previously canceled claim 75, which was free from the prior art of record. However, Examiner failed to address this previous amendment and Applicants are unclear as to why claim 101 is rendered obvious by Abe *et al.* in light of Lee because the prior art references in combination do not teach or suggest all the claim limitations. Again, in the interest of advancing prosecution and in no way conceding to the merits of Examiner's rejection, Applicants have amended claim 101 to further recite the limitation of canceled claim 76, which was also free from the prior art of record. As such, claim 101 recites that the "relevancy level" of the relevancy determination unit "is defined by a relevancy level threshold." Accordingly, Abe *et al.* in light of Lee does not teach or suggest all the claim limitations.

Applicants respectfully submit that claim 101 is not rendered obvious by Abe *et al.* in view of Lee. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 101 under §103(a).

As discussed above, Applicants submit that a rejoinder of the non-elected claims is now proper. First, Applicants draw Examiner's attention to the following:

"Where claims directed to a product and to a process of...using the product are presented in the same application, applicant may be called upon under 35 U.S.C. § 121 to elect claims to either the product or a process . . . However, if applicant elects claim(s) directed to the product, which is subsequently found allowable, withdrawn process claims which...require all the limitations of an allowable product claim will be considered for rejoinder." MPEP § 821.04(b).

Applicants respectfully submit that claims 52 and 77, as amended, are allowable, and thus claims 102 and 132 and the claims that depend therefrom, which contain all the limitations of claims 77 and 52, respectively, must be considered for rejoinder and should be rejoined because the process claims are commensurate in scope with the allowable product claims.

Applicants respectfully submit that the scope of the non-elected claims is not disproportionately different from the product claims such to prevent the rejoinder of non-elected claims. Applicants respectfully emphasize that the scope of claim 52 covers a product that may be used *to perform a relevancy*

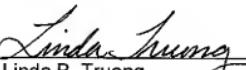
determination of a keyword; and the scope of non-elected claims 132-152 covers a process of using the product of claim 52 to perform a relevancy determination of a keyword. Accordingly, claim 52 and non-elected claims 132-152 are commensurate in scope, as they all relate to relevancy determination of a keyword. Similarly, Applicants respectfully emphasize that the scope of claim 77 covers a product that may be used for receiving and processing real time terms; and the scope of non-elected claims 102-131 covers a process of using the product of claim 77 for receiving and processing real time terms. Accordingly, claim 77 and non-elected claims 102-131 are commensurate in scope as they all relate to receiving and processing real time terms.

In light of the foregoing, Applicants respectfully request rejoinder of claims 102-152.

All of the claims remaining in the application are now believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited. If questions remain regarding this application, the Examiner is invited to contact either of the undersigned at (213) 633-6800.

Respectfully submitted,
Boaz JASCHEK, *et al.*
DAVIS WRIGHT TREMAINE LLP

By Seth D. Levy, Reg. No. 44,869/
Seth D. Levy
Registration No. 44,869

By 
Linda B. Truong
Registration No. 56,461

865 South Figueroa Street, Suite 2400
Los Angeles, CA 90017-2566
Phone: (213) 633-6800
Facsimile: (213) 633-6899